



**HEARING BEFORE THE
COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON SOCIAL SECURITY
UNITED STATES HOUSE OF REPRESENTATIVES**

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STATEMENT OF

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Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to discuss the Social Security Administration's (SSA) Representative Payee Program. I am LaTina Burse Greene, SSA's Assistant Deputy Commissioner for Retirement and Disability Policy.

Social Security benefits and Supplemental Security Income (SSI) payments provide an important lifeline for millions of elderly and disabled Americans, survivors of deceased workers, and millions of young children. From the early days of the program, Congress recognized that not all beneficiaries would be able to manage their benefits. Therefore, Congress gave us the authority to appoint representative payees to receive and manage benefits on behalf of those beneficiaries. Currently, more than 8 million Social Security and SSI beneficiaries have representative payees.

We take our responsibility in this area very seriously. The beneficiaries who need a representative payee to handle their benefit payments are the most vulnerable individuals we serve. We are committed to doing everything we can to ensure that beneficiaries who cannot manage their benefits have full and appropriate use of their benefits and that benefits paid through a representative payee are used to serve the best interest of the beneficiary.

Selecting a Payee

In deciding whether a person needs a representative payee, we consider all evidence relevant to whether a person is capable of managing or directing the management of his or her benefits. Once we identify the need for a representative payee, we choose an individual or organization that is well qualified to fill that need. We choose a payee applicant who demonstrates concern for the beneficiary; we generally look first to family members and close friends as potential representative payees.

However, regardless of the applicant's relationship with the beneficiary, we review the applicant's suitability to act as representative payee before we appoint the applicant to serve as the payee. The process for evaluating an individual's qualifications includes identifying factors that disqualify an individual from serving as a representative payee (e.g., conviction of certain violations of the Social Security Act).

Our employees thoroughly review the representative payee application, interview the applicant to determine his or her qualifications and relationship to the beneficiary, and assess the applicant's ability to carry out the responsibilities of a representative payee. If we have any doubt about the information the applicant provides, we obtain additional information (from third parties) to verify the applicant's statements. We resolve any discrepancy or inconsistency before we appoint the applicant as a payee. When the beneficiary lives with someone other than the payee applicant, we verify the applicant's concern for the beneficiary with his or her custodian.

Preferred Candidates

Based on our experience, we have developed a preference list to rank the types of payee applicants most likely to act in the beneficiary's best interests. For most beneficiaries over the age of 18, that list is:

- A spouse, parent or other relative with custody or who shows strong concern for the personal welfare of the beneficiary;
- A legal guardian/conservator with custody or who shows strong concern for the personal welfare of the beneficiary;
- A friend with custody;
- A public or nonprofit agency or institution with custody of the beneficiary;
- A Federal or State institution;
- A statutory guardian;
- A voluntary conservator;
- A private, for-profit institution with custody and licensed under State law;
- A friend without custody, but who shows strong concern for the beneficiary's well-being, including persons with power of attorney;
- Anyone not listed above who is qualified and able to act as payee, and who is willing to do so;
- An organization that charges a fee for its service.

Let me be clear—the preference list is not controlling. We evaluate every case on its own merits, and make payee determinations on a case-by-case basis. The list serves as a useful tool for our employees that helps focus their investigation of potential payees. When a payee applicant is lower on the preference list than other individuals or organizations, we contact potential preferred payees who are higher on the preference list to determine if they wish to file an application. We then consider all the evidence we have and determine which person or organization is in the best position to protect the beneficiary's interests.

Monitoring Payee Performance

We now have approximately 5.9 million representative payees managing \$72 billion in annual benefits for 8.4 million beneficiaries. Fifty-two percent of the beneficiaries with payees are minor children. Our payee program relies heavily upon family relationships. In fact, family members, primarily parents or spouses, serve 85 percent of the beneficiaries who have payees. Of the 5.9 million payees, less than one percent, or 38,500, are organizational payees (including 1,400 fee-for-service (FFS) payees). FFS organizational payees serve approximately 1.1 million beneficiaries. Generally, we will appoint an organizational representative payee only when no immediate or other family member is able, willing, or qualified to serve.

Once a representative payee is appointed, we monitor the payee to help ensure continued qualification to serve and evaluate use of benefits. Our monitoring activities also help to deter and detect misuse.

In assessing the performance of a payee, we look for indications that the payee is not performing their duties adequately. Often when we discover that a payee is performing poorly, we can help the payee correct the poor performance by re-educating the payee about his or her duties and responsibilities, including the need to keep adequate records. If necessary, we will remove a poorly performing representative payee.

With the exception of certain State mental institutions, all representative payees are required to submit to us an annual report accounting for the use of beneficiary funds. We review these reports and investigate those payees who provide questionable responses. For the period October 2011 through September 2012, we mailed approximately 6.5 million accounting reports to our representative payees. Payees did not return approximately 840,000 reports (or 13.2 percent). During the same period, we reviewed 1.5 million reports with questionable responses.

Our field offices (FOs) work with payees to resolve non-responder cases. We contact the payee to remind them of their responsibility to provide annual accounting, and seek a new payee if the current payee continues to be unresponsive. The law provides us with the authority to redirect benefit payments to the FO when a representative payee fails to provide the required accounting forms. The representative payee must then appear in person at one of our FOs and provide an accounting to continue to receive payment. FOs review the circumstances of each case to determine if they should develop for a new payee or pay the beneficiary directly.

We are also using technology to oversee our payee workload more efficiently. For example, in 2007, we implemented an accounting database to store data and control the annual accounting process. In addition, we developed an automated process to analyze payee responses on the annual accounting report and to investigate and control accounting exceptions.

We thoroughly evaluate state institutions once every three years. A team of SSA personnel visits the institution to conduct financial accountings and to observe and interview the beneficiaries served by the institution. We report the findings of the review to the State and monitor for corrective action any problems uncovered in the review.

Expanded Monitoring

We take our monitoring responsibilities very seriously and are continually improving our monitoring procedures. In addition to the annual accounting process, we monitor representative payees' fiduciary performance through our on-site review process. In 2000, we initiated an expanded monitoring program for volume payees. We conduct these reviews to determine whether volume payees are performing their payee duties and responsibilities satisfactorily, and complying with our rules. The reviews include the examination of financial records and supporting documentation. In addition to the site review process, the expanded monitoring program includes these activities:

- Reviews of large individual and organizational payees not included in the triennial onsite reviews and who are chosen by a misuse predictive model;
- Six-month educational review of all new FFS payees and annual certification of FFS payees to ensure they meet our bonding and licensing requirements; and
- Review of individual, organizational, or FFS payees in response to “trigger” events such as third party reports or complaints by vendors.

Although these visits are very labor intensive for us, they have proven to be very effective. We have found numerous instances where the payees were not following our rules, and we have taken corrective action and educated the payees about their duties and responsibilities. In some cases, we have removed payees for misuse of benefits or poor performance.

In doing these reviews, we sometimes discover problems affecting the beneficiaries that are unrelated to SSA. In these instances, we immediately contact the appropriate Federal, State, or local agency for further investigation.

Some of our FOs have also conducted additional reviews of payees whom they believe need more oversight, even though no event necessitating a targeted review has occurred. We refer to these reviews as “optional reviews.”

Social Security Protection Act (SSPA) of 2004

The SSPA was the most recent major legislation affecting our payee program. It extended the expanded monitoring program to include a larger universe of volume payees. It requires periodic reviews for:

- Any organization that serves as the representative payee for 50 or more beneficiaries, and
- Individuals serving as a representative payee for 15 or more beneficiaries. (SSPA also required reviews of non-governmental FFS representative payees; however, this group was already included in SSA’s monitoring program.)

The SSPA provided us with additional tools to penalize representative payees found to have misused benefits, including:

- Making payees forfeit fee for service monies (i.e., disqualifying an organization from collecting a fee in any month it misused benefits);
- Giving us enhanced means to hold payees liable for misused benefits (i.e., allowing us to collect misused benefits from payees by treating them as the payees’ overpayments); and
- Authority to impose civil monetary penalties when a payee misuses benefits.

In certain cases where we find misuse, SSPA also requires us to reissue the amount of misused benefits prior to recovering those benefits from the misuser payee.

Financial Monitoring of Organizational Payees

Since 2001, we have had a subscription with Dun & Bradstreet (D&B) to obtain credit reports on payees who apply to become a FFS organizational payee. The credit report provides information to us about businesses that may not be financially stable. D&B monitors these businesses for critical events, such as bankruptcy, that may indicate the payee's business is failing and is thus a risky choice to handle a beneficiary's money.

Payee Outreach and Education

In order to assist our representative payees and improve our customer service, we have a website just for the Representative Payee Program – www.socialsecurity.gov/payee.

This website provides a number of educational materials for individuals and organizations serving as representative payees, as well as material for beneficiaries who have had a payee appointed for them. The website also allows representative payees to complete their annual accountings online.

We collaborated with advocacy groups to develop a webinar encouraging individuals to volunteer their services to serve as a representative payee.

Major Steps We Have Recently Taken

In 2007, we contracted with National Academy of Sciences (NAS) to conduct a survey to determine how benefit payments sent to individual and organizational representative payees were being managed and used. NAS found that the representative payee program is generally meeting the needs of payees and beneficiaries. While its report provided a list of recommendations, it recognized that we have done a good job managing the program despite limited resources.

Our in-depth analysis of the NAS' recommendations, in tandem with our ongoing review of our programs, resulted in a number of achievements:

- We are using a risk-based approach to payee oversight. To that end, we developed a misuse predictive model that we have been using since 2011 to select payees for onsite reviews. These reviews are in addition to our onsite reviews of volume payees and fee-for-service payees that are required by law. As part of that model, we addressed another NAS recommendation, which was to give special scrutiny to payees who receive large lump-sum past-due benefit payments.
- We are currently making significant technical enhancements to the Representative Payee System (RPS) and including functionality to make it easier for our field employees to document their payee decisions.

- We have in place a misuse predictive model that selects payees for our comprehensive onsite reviews.
- We have developed an online misuse tracking system. This system allows our field employees to store and track all allegations of misuse from the initial contact through to a formal misuse determination and subsequent collection of misused funds. This enhancement significantly increases our ability to monitor payees and, if applicable, make restitution to our beneficiaries when misuse of their benefits has occurred.

Beginning in FY 2011, we collaborated with the Protection and Advocacy (P&A) organizations under a contract with the National Disability Rights Network (NDRN) to conduct onsite reviews of organizational payees which serve less than 50 beneficiaries or individual payees who serve less than 15 beneficiaries. Using a misuse predictive model, we select cases based on payee beneficiary characteristics that indicate a higher likelihood of potential misuse. If the P&As detect a problem with the payee, they refer the payee to us for follow-up.

We have committed considerable resources to overseeing our payee program and have taken actions to improve the process, including:

- Creating a training kit for organizational representative payees which includes a video, a booklet (“Guide for Organizational Representative Payees”), a beneficiary pamphlet, a lesson plan, and a PowerPoint presentation;
- Developing a pamphlet for adult beneficiaries served by representative payees to explain their rights and responsibilities, adding information for payees on our public website about best recordkeeping practices and protecting the personally identifiable information of beneficiaries, and producing training videos for representative payees on best recordkeeping practices and for our staff on reviewing payee records;
- Providing our field personnel with updated program instructions that will help them conduct more thorough reviews;
- Revising the annual accounting form used for FFS and organizational payees to detect those who incorrectly charge a fee for service;
- Contracting with accounting firms to assist us in some of our reviews of payees who serve large numbers of beneficiaries, have complex record systems, or whom we suspect of misuse;
- Continuing to maintain a list of all payees who have lost payee status due to a finding of misuse of funds or conviction of a violation of section 208, 811, or 1632 of the Social Security Act;
- Enhancing our representative payee monitoring website to capture more data about the outcomes of reviews and misuse cases;

- Publishing regulations and operating instructions to improve the FFS program, implementing a new electronic representative payee accounting system to automate processing of exceptions for representative payee accounting reports, and revising the interview guides that our staff uses to interview payees and beneficiaries when conducting periodic site reviews, random reviews, and targeted reviews to ensure that we capture all pertinent information about a payee's practices; and
- Making the Representative Payee Accounting forms available for completion and submission on the Internet so as to provide better service to representative payees.

Criminal Bar Pilot

Unfortunately, despite all of our efforts to carefully select proper representative payees and monitor their performance, egregious situations of misuse and abuse do occur. We aggressively evaluate lessons learned to decide what more we can do to quickly detect and prevent such events. In response to such a case in the Philadelphia region, where an individual who was payee for several of our beneficiaries misused their benefits and abused the beneficiaries, we conducted a comprehensive review of our representative payee selection and monitoring processes. Based on what we learned, we made several changes to those processes. For example, we are testing a new policy wherein we automatically bar representative payee applicants who have committed certain serious crimes. The 12 crimes are: human trafficking, false imprisonment, kidnapping, rape/sexual assault, first degree homicide, robbery, fraud to obtain governmental assistance, fraud by scheme, theft of government funds/property, abuse/neglect, forgery, and identity theft. (Prior to this new policy, individuals having committed such crimes were not automatically barred from serving as representative payees.) There is an exception to the policy for certain custodial parents.

We are piloting this new policy in our Philadelphia Region. As of May 23, 2013, the region had processed 26,395 representative payee applications. Of those applications, the region barred 223 payee applicants from serving as a payee because they had committed one or more of the crimes listed above. We published a Federal Register Notice in February 2013 to solicit public comments on the policy.

While we continue to assess the outcomes of our pilot, we continue to pursue additional protection for our beneficiaries. Currently, we obtain criminal background information through payee applicant self-reporting, Prisoner Update Processing System (PUPS) data, or fugitive felon data. If an applicant has a criminal history, we ask follow up questions to determine his or her suitability as payee. In late June, we plan to expand the pilot in the Philadelphia region to include use of an electronic system to obtain third-party criminal information on payee applicants from Lexis/Nexis Accurint. On April 22, 2013, we published a System of Records Notice in the Federal Register informing the public that we will collect criminal background information on payee applicants through a third party.

Annual Report on the Results of Periodic Representative Payee Site Reviews and Other Reviews

The SSPA requires us to report to Congress on the results of site reviews of specific types of representative payees as well as any other reviews of representative payees conducted during the prior fiscal year (FY). The FY 2012 Report to Congress is available on our website at <http://www.socialsecurity.gov/legislation/2012RepPayeeReport.pdf>.

The report shows that relatively few representative payees misuse benefits. We conducted a total of 2,050 reviews on payees in FY 2012 and we identified 30 cases of misused funds during onsite, random, and targeted reviews; these cases have been referred to the Office of the Inspector General for investigation.

Out of the 30 cases where we found misuse, we removed six payees in cases where we found misuse had occurred. We also removed 14 payees due to poor performance of duties. In addition, we identified other problems involving misunderstanding of representative payee duties, without any intentional misconduct. We continue to take steps to address the problems identified during our programmatic review activities.

While we found that misuse of benefits occurs in only about 0.01 percent of cases (i.e., 1 in every 10,000) we continue to improve our ability to track and monitor these cases. For example, in October 2011, we began using a system that enables us to manage misuse cases much more efficiently.

Measures of SSA's Effectiveness – Government Accountability Office (GAO) and Office of the Inspector General (OIG)

In addition to our efforts to select the proper representative payee and monitor the representative payee once selected, our OIG provides recommendations for improving the program based on its reviews of the representative payee program, and of specific payees.

The OIG's specific reviews of representative payees have primarily focused on large organizations or individuals that manage beneficiaries' funds. However, OIG also conducts audits, at our request, of representative payees who may have committed misuse or who are problematic. In addition, OIG evaluated our oversight of representative payees who employ the beneficiaries in their care.

We have participated with OIG in several recent audits to identify individual representative payees who have misused children's benefits because they did not inform us that a child was no longer in their care and was in foster care. Based on OIG's recommendations, we take follow-up actions to ensure the representative payees correct any identified deficiencies and, if appropriate, we remove beneficiaries from the payee's care.

The OIG has also made several recommendations to improve our oversight of the representative payee program. These have been very beneficial in helping us develop:

- criteria to identify characteristics of representative payees that may result in an increased risk of benefit misuse,

- procedures that help ensure large-volume payees have adequate resources to assume their payee responsibilities,
- procedures to help ensure disabled beneficiaries and their families are aware when a representative payee may be needed,
- improvements to our triennial site reviews of large individual and organizational representative payees,
- processes to ensure we obtain restitution from representative payees who committed misuse,
- procedures to strengthen when and how we refer instances of misuse to OIG, and
- improvements in the representative payee selection process.

We take our IG's recommendations very seriously, and we use their findings to manage our representative payee program more efficiently.

In addition, GAO recently conducted a comprehensive review of our representative payee program. We thank GAO for its efforts and look forward to working with them to improve the program.

In their report, the GAO notes how we have taken action to improve our representative payee payment administration by initiating programs such as the criminal bar pilot I mentioned earlier, which will improve our ability to protect our beneficiaries from fraud and abuse. We agree with GAO's recommendation to evaluate the effectiveness of the pilot and anticipate completing the analysis in FY 2014. This evaluation will ensure we can effectively implement the policy before going nationwide.

We also agree with the other two recommendations in the report. In FY 2014, we will begin work to estimate the number of people in need of representative payees and use the data to inform our long-term strategies to address future challenges. We will evaluate and consider alternatives that could streamline processing and develop long-term strategies, as appropriate, to improve our representative payee monitoring program.

We have chartered a Representative Payee Strategic Team that will reach out to other agencies that have similar programs to determine the potential for collaborating with them on payee activities. This group will evaluate current operations and make recommendations to agency leadership on strategies to address the future needs of our representative payee program. In addition, we are coordinating with the Federal Elder Justice Coordinating Council and the National Adult Protective Services Association to identify additional strategies to protect beneficiaries against potential financial exploitation. In addition, an outside entity will examine current state guardianship and related laws and conduct a survey of state court practices regarding the selection, monitoring, and sanctioning of guardians and other fiduciaries. The study will consider the appropriateness and practicality of exchanging information between SSA

and state entities (such as state courts), particularly in cases where the representative payee and guardian are the same person.

GAO offers other options for consideration. As the report says, those options come with both positive and negative consequences. We continue to actively evaluate these and other options to improve the representative payee program, and we will implement the changes that will effectively reduce our workloads while maintaining or improving our ability to prevent fraud and abuse.

It also noted that many options to improve the representative payee program require changes in the law. For example, GAO referred to a 2009 legislative proposal to Congress that would have exempted custodial parents and spousal payees with custody from the requirement to provide annual payee accountings to us. We welcome the opportunity to work with Congress on developing legislative proposals that would improve our stewardship of the program.

Need for Sustained, Adequate Funding

While we remain deeply committed to the representative payee program, we can do only so much without sustained, adequate resources (in FY 2012, we dedicated 1,860 work years to representative payee related activities). We have seen first-hand that sustained, adequate funding is vital for providing good customer service and how budget cuts can harm the public. The funding Congress provides to us truly makes a difference in millions of Americans' lives.

However, we are now experiencing significant challenges stemming from three straight years of funding levels at nearly a billion dollars below the President's Budget requests. These tighter budgets, including cuts due to sequestration, have challenged our ability to serve beneficiaries, including the most vulnerable among them who need representative payees. As the GAO recognized in its recent study, we are facing increasing workloads and staff attrition. We have lost nearly 10,000 employees since the beginning of FY 2011. Despite consistent year-over-year increases in employee productivity, we have had to reduce the time that our offices are open to the public and close some field offices. The bottom line is that sustained and adequate funding is essential to providing good customer service.

Conclusion

There are approximately 8.4 million SSA beneficiaries being served by approximately 5.9 million different representative payees. We appoint or reappoint payees for approximately 1.7 million beneficiaries each year. We mail out over 6 million annual payee accounting forms that we must also then review. This is a large program involving some of our most vulnerable beneficiaries. Our employees care very much about the people we serve and we are committed to ensuring that we protect these individuals by making good representative payee decisions and by monitoring the performance of the payees we appoint. We continually review our processes to develop ways to improve them in order to prevent potential misuse situations, recognizing that limited resources limit our actions.

We believe with the help of Congress, we will be able to further improve the protections for our beneficiaries with payees when funds have been misused. We look forward to working with you to assure public confidence in our programs. I appreciate the opportunity to discuss our efforts.